

# **SDMS US EPA REGION V -1**

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DOCUMENTS.**

TAB 19

157444

1982 TREATMENT AGREEMENT

THIS AGREEMENT made, executed and entered into on the dates hereinafter set opposite each party's signature by and among VILLAGE OF SAUGET, an Illinois municipal corporation, hereinafter referred to as VILLAGE; and MONSANTO COMPANY ("MONSANTO"), a Delaware corporation authorized to do business in Illinois, EDWIN COOPER, INC. ("COOPER"), a Delaware corporation authorized to do business in Illinois, PFIZER INC. ("PFIZER"), a Delaware corporation authorized to do business in Illinois, and CERRO COPPER PRODUCTS CO. ("CERRO"), a Delaware corporation authorized to do business in Illinois, each of which is hereinafter referred to as COMPANY and all of which are hereinafter referred to as COMPANIES, collectively.

KNOW ALL MEN BY THESE PRESENTS:

W I T N E S S E T H:

WHEREAS, by reason of certain rules and regulations adopted by the Illinois Environmental Protection Agency and other Federal and Illinois statutes and administrative rulings and to preserve the public health and welfare, it is necessary that VILLAGE cause to be designed and constructed a wastewater treatment plant for the primary and secondary treatment of wastewater of all, or substantially all, of the Town of East St. Louis and of the Town of Centreville (excluding the VILLAGE) and for the secondary

treatment of wastewater from the existing physical/chemical treatment plant of the VILLAGE; and

WHEREAS, the VILLAGE has heretofore retained RUSSELL & AXON, ENGINEERS - PLANNERS - ARCHITECTS, INC., an Independent Engineer, to plan and design such regional wastewater treatment plant; and

WHEREAS, the VILLAGE has approved such design and plans and the hereinafter stated cost estimate; and

WHEREAS, the costs of such design and construction, plus the costs of reimbursing participating political entities for related expenditures, plus the costs of refinancing certain outstanding revenue bonds, plus the cost of establishing the 1982 Debt Service Reserve Account in the estimated initial amount of \$4,467,012.50, plus the cost of establishing the 1982 Operations and Maintenance Reserve Account in the estimated initial amount of \$657,000.00, plus the cost of establishing the 1982 Interest Account in the estimated initial amount of \$12,801,037.50, plus the costs of issuing and selling the bonds hereinafter described, aggregates the estimated amount of \$113,545,900; and

WHEREAS, in order to partially pay said costs, the VILLAGE expects to receive from third parties and from investment earnings the estimated sum of \$71,545,900; and

WHEREAS, in order to finance and pay the remaining balance of such costs, it is necessary for the VILLAGE to issue and sell an estimated amount of \$42,000,000 revenue bonds; and

WHEREAS, it is advisable for the VILLAGE to reserve the right to issue a maximum of \$750,000 revenue bonds on a parity with the aforesaid \$42,000,000 to pay any necessary additional unforeseen costs of completion of construction of such regional wastewater treatment plant plus an additional maximum of \$1,250,000 revenue bonds on a parity with the aforesaid \$42,000,000 to pay the costs of a sludge disposal facility ancillary to said regional wastewater treatment plant; and

WHEREAS, such regional wastewater treatment plant will be used by each of the COMPANIES in the collection, transmission and disposal of their respective effluent, sewage and other industrial wastes and, therefore and in consideration thereof, each of the COMPANIES is willing to agree to make certain payments to VILLAGE as hereinafter specified.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements herein contained, the VILLAGE and each of the COMPANIES do hereby mutually promise, covenant and agree as follows:

Section 1. Definitions. Each of the following terms shall have the following definition:

"Agreement": this Agreement as from time to time supplemented and amended.

"Aggregate Requirements": the amount required to be deposited in all of the funds and accounts created and established and to be maintained pursuant to the 1982 Bond Ordinance (including any amounts to be deposited into the Surplus Account by operation of the rate covenant as set forth in said Ordinance).

"ASSOCIATION": the SAUGET SANITARY DEVELOPMENT & RESEARCH ASSOCIATION, a Delaware not-for-profit corporation authorized to do business in Illinois, and its successors and assigns.

"1982 Bond Ordinance": the Ordinance of VILLAGE pursuant to which the 1982 Revenue Bonds are to be issued.

"Fiscal Year": that 12 calendar month period which commences on May 1 of any calendar year and which ends on April 30 of the following calendar year.

"Flow Rate": that rate to be charged to Users for the treatment of gallons of wastewater effluent and to be determined, for each Fiscal Year, under the provisions of Sections 3, 4 and 6 hereof and to be uniform for all Users of the Regional System, whether industrial or non-industrial, regardless of where situated in the Region.

"Industrial User": any person, firm or corporation which discharges wastewater of 73 million gallons or more per annum to the Regional System.

"Liquidated Debt Service Charge": an amount of money, calculated as of any date, represented by the sum of the following:

(i) all interest which has accrued and will accrue on the 1982 Revenue Bonds from the then last interest payment date to and including the then earliest optional redemption date, excluding interest to be paid from and out of the proceeds of sale of the 1982 Revenue Bonds; plus

(ii) All principal which will mature on the 1982 Revenue Bonds from the then last principal payment date to and including the then earliest optional redemption date; plus

(iii) all principal on the 1982 Revenue Bonds outstanding on the date immediately following the then earliest optional redemption date; plus

(iv) the redemption premium, if any, due on the then earliest optional redemption date assuming that all of the 1982 Revenue Bonds be then redeemed.

"COMPANY's Share of Liquidated Debt Service Charge": shall be that proportion of the Liquidated Debt Service Charge which is determined by dividing such COMPANY's then applicable Minimum Annual Use (as hereinafter defined) by the total of the then applicable Minimum Annual Use of all of the COMPANIES.

"Regional System": that part of the System consisting of the real estate to be acquired and the improvements to be constructed with the proceeds of the 1982 Revenue Bonds and any grants in connection therewith, including easements and appurtenances related thereto, substantially as described in the plans and specifications prepared by RUSSELL & AXON, ENGINEERS - PLANNERS - ARCHITECTS, INC., St. Louis, Missouri, dated September, 1981, and accepted by and on file with the VILLAGE, and all renewals and replacements thereto and all additions to and extensions of the System which connect directly with the regional wastewater treatment facility constructed with the proceeds of the 1982 Revenue Bonds which additions or extensions discharge wastewater effluent directly to such facility without any treatment by the VILLAGE at any other treatment facility or site; all whether the same are located within or without the corporate boundaries of the Village; and excepting expressly, all such improvements related to the "Cahokia Trunk

Line" which is owned and operated by the Village of Cahokia and the Commonfields of Cahokia Public Water District.

"Regional System Rate Ordinance": that Ordinance (or portion thereof) to be adopted by the VILLAGE, as amended from time to time, establishing rates for the use of the Regional System.

"1982 Revenue Bonds": the \$42,000,000 revenue bonds to be initially issued and sold by VILLAGE pursuant to the 1982 Bond Ordinance plus a maximum of \$2,000,000 additional revenue bonds on a parity therewith as hereinabove provided.

"System": the existing sewer collection and transmission lines of the VILLAGE; the existing physical/chemical wastewater treatment plant and the existing pumping station of the VILLAGE; and all other property and facilities of the VILLAGE used or to be used for the collection, transmission and treatment of wastewater; all as now existing and as they may hereafter be extended or improved; and also all extensions, additions and improvements thereto or replacements thereof hereafter constructed or acquired by purchase, contract or otherwise; all whether the same are located within or without the corporate boundaries of the VILLAGE.

"Trustee": Mercantile Trust Company, N.A., St. Louis, Missouri, and its successors as provided in the 1982 Bond Ordinance; provided, however, that such bank is, and any successor shall be, a member of the Federal Reserve System or the Federal Deposit Insurance Corporation or both.

"User": any person, firm or corporation who discharges wastewater to the Regional System or any part thereof.

"VILLAGE": the VILLAGE OF SAUGET, an Illinois municipal corporation, and its successors and assigns.

"VILLAGE System": that part of the System consisting of the VILLAGE's existing physical/chemical wastewater treatment facility located at 10 Mobile Street in the VILLAGE and the entire collection and pumping facilities leading thereto, and all renewals and replacements thereto and all additions to and extensions of the System which do not constitute a part of the Regional System.

Section 2. Budget, Audits and Right to Examine Books and Records. (a) No later than 60 days before the beginning of each Fiscal Year, commencing with the 1983-84 Fiscal Year, the VILLAGE, with the assistance of the ASSOCIATION, will prepare an annual budget for the Regional System which must provide for the payment of the Aggregate Requirements during such Fiscal Year with reasonable provision for estimated bad debts and delinquent charges in connection with use of the Regional System.

(b) For the five consecutive Fiscal Years, beginning with the 1983-84 Fiscal Year, the VILLAGE will have the annual budget for each of such Fiscal Years reviewed by an independent certified public accountant, a nationally recognized independent consulting engineer or a nationally recognized utility financial consultant. The VILLAGE agrees to comply with all reasonable recommendations made by such independent accountant, engineer or consultant.



(c) The VILLAGE agrees to supply each of the COMPANIES a copy of the annual budget, the annual audit and all further records or reports which it is required to supply to the Trustee under the 1982 Bond Ordinance.

(d) Each of the COMPANIES shall have the right at reasonable times and at its own expense to examine all the books and records of VILLAGE with respect to the Regional System.

Section 3. Rate Covenant.

(a) Based on the budget required in Section 2 hereof, the VILLAGE will establish and maintain rates and charges for the wastewater treatment services of the Regional System which will be at least sufficient to provide the Aggregate Requirements plus not to exceed 25% of the amount required by the 1982 Bond Ordinance to be deposited to pay principal of and interest on the 1982 Revenue Bonds during such Fiscal Year.

(b) To the extent permitted by law, the VILLAGE shall impose a surcharge upon any present or future Industrial User of the Regional System which is not a signatory of this Agreement; provided, however, that the VILLAGE shall give any such present or future Industrial User a reasonable opportunity to become such a signatory. Any such surcharge shall be credited, during the succeeding Fiscal Year, to each COMPANY (which is not then in default hereunder) in the same proportion that its then applicable Minimum Annual Use bears to the total of the Minimum Annual Use of all of the COMPANIES sharing in such credit.

Section 4. Establishment of Flow Rates. (a) Based upon the budget required in Section 2 hereof, the Flow Rates to

be charged by the VILLAGE for the treatment of wastewater shall be determined and established at least 30 days prior to the beginning of the Fiscal Year in which such Flow Rates are to be charged. Such Flow Rates shall be determined using:

(i) the actual flow of wastewater effluent during the preceding Fiscal Year by all Users except the COMPANIES; plus

(ii) the actual flow of wastewater effluent during the preceding Fiscal Year by any COMPANY (not then in default hereunder) if its actual flow of wastewater effluent was in excess of its Minimum Annual Use; plus

(iii) the Minimum Annual Use of any COMPANY (not then in default hereunder) whose actual flow of wastewater effluent during the preceding Fiscal Year was less than its Minimum Annual Use, reduced by its credit, if any, under the provisions of Section 6(c).

For budgetary purposes, the calculations made under the provisions of this Section 4 shall be determined for the first nine (9) months of the then current Fiscal Year and shall then be annualized by multiplying the same by 133.33%.

(b) If at any time during the Fiscal Year a COMPANY or a unit of local government (in the event the VILLAGE is then billing such unit pursuant to agreement) becomes delinquent in the payment of charges imposed by the VILLAGE for the wastewater treatment services of the Regional System, then the VILLAGE shall recompute the rates to be charged for such service during the remainder of the then current Fiscal Year by (i) amending the budget for the remainder of the Fiscal Year, if necessary,

to reflect any loss of revenue expected as a consequence of such delinquency, and (ii) eliminating from the basis for the calculation determining such rates the flow of wastewater effluent (be it actual flow or Minimum Annual Use) relating to any delinquent COMPANY or unit of local government.

(c) In the event that the VILLAGE or the TRUSTEE has collected from a defaulting COMPANY or the surety on its performance bond, or both, all or part of such COMPANY's Share of the Liquidated Debt Service Charge, the sum so collected shall be held separate and apart by the Trustee for the payment of the principal of and interest on the 1982 Revenue Bonds for which received, and VILLAGE agrees to take the availability of such sum into account in preparing the budget under Section 2 hereof and establishing the Flow Rate under this Section.

Section 5. 1982 Bond Ordinance. Each of the COMPANIES acknowledges receipt of a certified copy of the 1982 Bond Ordinance. Each of the COMPANIES agrees that nothing in this Agreement shall be construed to limit or restrict the performance of any of the VILLAGE'S obligations, duties and covenants under the 1982 Bond Ordinance.

Section 6. COMPANIES' Minimum Obligations.

(a) Notwithstanding its actual use of the Regional System, each of the COMPANIES shall be deemed to have discharged to the Regional System, during each Fiscal Year, the minimum amount of flow of wastewater effluent as set forth opposite its name in the following table subject to reduction only as herein expressly provided (the "Minimum Annual Use"):

<u>COMPANIES</u>	<u>MINIMUM ANNUAL USE (Millions of Gallons)</u>
MONSANTO	1,952.75
COOPER	167.90
PFIZER	672.99
CERRO	243.55

(b) PFIZER'S Minimum Annual Use of 672.99 million gallons per annum specified in Sub-Section (a) is based upon PFIZER'S representations and warranties to the VILLAGE and the other COMPANIES that PFIZER shall, commencing no later than November 30, 1983 and continuing thereafter during the term of this Agreement, dispose of its non-contact cooling water, with or without minimal pre-treatment, by discharging the same to the MISSISSIPPI RIVER via SCHOENBERGER CREEK, rather than through the sewers of the CITY OF EAST ST. LOUIS.

PFIZER further agrees that, at its own expense and on or before November 30, 1983, it shall install and thereafter maintain monitoring devices to measure the amount of its non-contact cooling water discharged as provided above and also the amount of its wastewater discharged into the sewers of the CITY OF EAST ST. LOUIS. Such measuring devices shall be those specified by the VILLAGE, with the consent of PFIZER which shall not be unreasonably withheld, shall be in the control of the VILLAGE and shall be subject to inspection by a VILLAGE representative at any reasonable time.

If, during the twenty-four (24) month period of December 1, 1983 to and including November 30, 1985, or during any subsequent twenty-four (24) month period of December 1 of one

year to and including November 30 of the second succeeding year, the total amount of PFIZER'S non-contact cooling water discharged to the MISSISSIPPI RIVER via SCHOENBERGER CREEK is less than 1,460 million gallons, then and in any such event:

(i) PFIZER's Minimum Annual Use specified in Sub-Section (a) shall be increased by 50% of 87.8% of the difference between 1,460 million gallons and the number of gallons actually discharged by it to the MISSISSIPPI RIVER via SCHOENBERGER CREEK, such change to be deemed to have become retroactively effective on and as of the first day of such twenty-four (24) month period;

(ii) at its own expense, PFIZER shall furnish the VILLAGE an additional performance bond to reflect the resulting increase in PFIZER's COMPANY Share of the Liquidated Debt Service Charge; and

(iii) PFIZER shall reimburse the VILLAGE for any and all reasonable fees and expenses incurred as a result of such increase in its Minimum Annual Use.

(c) For the 1983-84 Fiscal Year only, the Minimum Annual Use for each COMPANY shall be 5/12th of its Minimum Annual Use as set forth in the above table.

(d) Each COMPANY shall pay to the VILLAGE an amount determined by multiplying its Minimum Annual Use or actual use, whichever is the greater, by the then current applicable Flow Rate.

Such payment shall be made as follows: Within ten (10) calendar days following the close of a calendar month in the Fiscal Year, each COMPANY shall pay an amount equal to the greater

of (i)  $1/12$  of the product of the multiplication of the Flow Rate applicable to such COMPANY in such month by its Minimum Annual Use, or (ii) the product of the multiplication of such Flow Rate by its actual wastewater effluent for such month.

If the cumulative effect of making such monthly payments for a particular Fiscal Year results in any particular COMPANY paying more than its obligations for such Fiscal Year, such COMPANY shall be credited for such overpayment within ninety (90) calendar days following the close of such Fiscal Year.

(e) If the aggregate amount actually paid by the COMPANIES under this Agreement for treatment of wastewater effluent in any particular Fiscal Year exceeds the greater of (i) the aggregate amount which such COMPANIES would have paid on the basis of their aggregate Minimum Annual Uses or (ii) the aggregate amount which such COMPANIES would have paid on the basis of their aggregate actual flow of wastewater effluent in such Fiscal Year, then such aggregate excess payments shall be credited to such COMPANIES each of whose individual actual use in such Fiscal Year was less than its respective Minimum Annual Use.

Such credit for such aggregate excess payments for each COMPANY shall be made on the basis of the percentage which such COMPANY'S "Underage" is of the total of all such "Underage" (a COMPANY'S "Underage" being the excess of its Minimum Annual Use over its actual annual use).

The computations provided in the two immediately preceding paragraphs relate only to those COMPANIES which are not in default hereunder.

For purposes of illustrating the provisions of this Sub-Section (e), five examples are set out as Appendix A to this Agreement.

(f) Any surcharge established by the Regional System Rate Ordinance for components in effluent (BOD<sub>5</sub> or suspended solids) imposed by the VILLAGE upon any discharger thereof shall be in addition to the payments otherwise provided hereunder. No credit shall be allowed hereunder for payment of any surcharge, but all Users shall receive credit therefor in determining rates for the subsequent Fiscal Year. The surcharge for each unit of such component shall be no greater than the treatment cost for each unit of such component in the normal, typical residential wastewater in the Region.

(g) Each COMPANY agrees unconditionally to pay its charges specified in this Section 6 of this Agreement (i) without set-off or counterclaim, (ii) whether or not it continues to be a User, (iii) whether or not the VILLAGE actually acquires, constructs or completes the Regional System or is actually accepting wastewater for treatment, and (iv) irrespective of any claim or charge it may have against the VILLAGE, the ASSOCIATION, any of the other COMPANIES or any other User of the Regional System. Each COMPANY also hereby waives and releases its right, if any, to contest the legality of the Liquidated Debt Service Charge or such COMPANY's share thereof, all as specified in Section 11 hereof, hereby certifying and warranting that such provision has been included herein at such COMPANY's request and for its own protection.

(h) VILLAGE shall take any and all reasonable and necessary action or actions to collect any defaulted payment from any defaulting COMPANY or other User of the Regional System.

(i) In the event any COMPANY fails to make a payment due from it under the provisions of this Agreement, such COMPANY shall also be liable for reasonable attorneys' fees and other expenses incurred by the VILLAGE in collecting or attempting to collect such defaulted payment and for interest on such defaulted payment as provided in the Regional System Rate Ordinance.

(j) During the pendency of any suit challenging any rate or the rate setting procedure, each COMPANY shall continue to make all payments due from it hereunder or under the Regional System Rate Ordinance, subject to any refund which might be due if and when such suit is disposed of by a final non-appealable judgment or by settlement.

Section 7. Assignment. The rights of any COMPANY under this Agreement may be assigned by such COMPANY, in whole or in part, without the necessity of obtaining the consent of either the VILLAGE or the other COMPANIES; subject, however, to each of the following conditions:

(1) No assignment (other than pursuant to Section 9 hereof) shall relieve such COMPANY from primary liability for any of its obligations hereunder and, in the event of any such assignment, such COMPANY shall continue to remain primarily liable for payment of the charges to be determined pursuant to this Agreement to the same extent as though no assignment had been made; and



(ii) The assignee shall in writing assume and agree to perform the obligations of such COMPANY hereunder to the extent of the interest assigned by such COMPANY; and

(iii) Such COMPANY shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to VILLAGE, ASSOCIATION and to the other COMPANIES a copy of each such assignment, certified to be true, correct and complete.

Section 8. Pledge of Security. It is understood by the parties hereto that the principal, interest and redemption premium, if any, of the 1982 Revenue Bonds will be secured by a pledge and assignment to the Trustee or to the holders, from time to time, of the 1982 Revenue Bonds, or to both the Trustee and such holders, of the VILLAGE'S rights under this Agreement and the hereinafter described performance bonds and of the revenues to be derived by the VILLAGE pursuant to the Regional System Rate Ordinance and this Agreement. COMPANIES hereby acknowledge that such pledge and assignment for such purposes shall be made by the VILLAGE.

Section 9. COMPANIES to Maintain Corporate Existence, etc.; Conditions Under which Exceptions Permitted. Each COMPANY agrees that, so long as this Agreement is still in effect as to such COMPANY, it:

(1) will be subject to suit in personam upon this Agreement in the Circuit Court of St. Clair County, Illinois, and will be subject to service of process of summons in such suit upon its Illinois registered agent, if any, or at its address specified in Section 13; and

(11) will not liquidate, dissolve, consolidate, merge or dispose of all or substantially all of its assets unless the COMPANY is the surviving corporation or unless the surviving or resulting corporation or transferee, as the case may be, (a) in writing assumes and agrees to perform all of the duties and obligations of such COMPANY under this Agreement and (b) has total equity capital of not less than ninety percent (90%) of the total equity capital of the Company immediately prior to such consolidation, merger or sale.

Section 10. Events of Default. The following shall be "events of default" under this Agreement and the terms "event of default" or "default" by a COMPANY shall mean, whenever it is used in this Agreement, any one or more of the following events:

(1) Failure by such COMPANY to pay any of its charges to the VILLAGE as determined hereunder or under the Regional System Rate Ordinance.

(11) A breach of the provisions of paragraph (11) of Section 9; or the filing by such COMPANY of a voluntary petition in bankruptcy; or the filing of any involuntary petition in bankruptcy against such COMPANY which is not removed or dismissed within 120 days; or the failure by such COMPANY promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry out its obligations under this Agreement; or the commission by such COMPANY of any act of bankruptcy; or assignment by such COMPANY for the benefit of its creditors;

or the entry by such COMPANY into an agreement of composition with its creditors; or the approval by a court of competent jurisdiction of a petition applicable to such COMPANY in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under any similar act which may hereafter be enacted.

(iii) A default by such COMPANY which is a party to that certain Agreement among the VILLAGE, MONSANTO, COOPER, CERRO, the ASSOCIATION and AMAX ZINC COMPANY, INC., dated on or about December 28, 1973, as amended and supplemented, in its duties and obligations under said Agreement, as so amended and supplemented.

Section 11. Remedies on COMPANY's Default. (a) Whenever any event of default referred to in Section 10 hereof shall have occurred, there shall immediately become due and payable by it to the VILLAGE the following sums of money:

(1) Any and all sums theretofore due and payable hereunder from, but unpaid by, such COMPANY; plus

(ii) Such COMPANY's Share of the Liquidated Debt Service Charge.

(b) Such COMPANY agrees to pay such COMPANY Share of Liquidated Debt Service Charge to the VILLAGE as damages, fixed, liquidated and agreed upon in advance, resulting from such COMPANY's default, actual damages being difficult, if not impossible, to ascertain precisely.

(c) The VILLAGE may take whatever action, at law or in equity, that may appear necessary or desirable to collect its charges under the Regional System Rate Ordinance and as determined

hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of any such COMPANY under this Agreement.

(d) Any amounts collected pursuant to action taken under this Section shall be used in accordance with the 1982 Bond Ordinance to pay 1982 Revenue Bonds.

(e) The VILLAGE agrees to take such actions as may be required to effect any or all of the above remedies upon the written demand of any one or more of such COMPANIES as shall not then be in default hereunder.

Section 12. Indemnity Bonds. To secure the payment of each COMPANY's Share of the Liquidated Debt Service Charge under the provisions of Section 11 hereof, each of the COMPANIES shall deliver to the VILLAGE, at the closing of the sale of the 1982 Revenue Bonds, an indemnity bond in an amount equal to such COMPANY's Share of the Liquidated Debt Service Charge, under which said COMPANY is the Principal with a good and sufficient corporate surety authorized to do business as such in Illinois, rated in Best's Insurance Reports as A-Class XV and acceptable to the VILLAGE whose approval shall not be unreasonably withheld.

The premium for such indemnity bonds shall be paid by the COMPANIES which shall be reimbursed by the VILLAGE from and out of the proceeds of sale of the 1982 Revenue Bonds.

The indemnity bonds shall be in substantially the same form as that which is attached hereto, marked Appendix B and, by this reference, incorporated herein and made a part hereof.

In the event that the VILLAGE issues either or both series of authorized parity bonds, each COMPANY will supply an additional indemnity bond or bonds sufficient to cover the increase in such COMPANY's Share of the Liquidated Debt Service Charge applicable to the additional bonds, the premiums therefor to be paid or reimbursed out of the proceeds of sale of any such additional bonds.

Section 13. Notices. All notices or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by first-class mail, postage prepaid, addressed as follows:

(i) If to the VILLAGE:

Village Clerk  
Village Hall  
2897 Falling Springs Road  
Sauget, Illinois 62206

(ii) If to MONSANTO:

General Counsel  
Monsanto Company  
800 North Lindberg Boulevard  
St. Louis, Missouri 63167

(iii) If to COOPER:

General Counsel  
Ethyl Corporation  
330 South 4th Street  
Richmond, Virginia 23219

(iv) If to PFIZER:

Plant Manager  
Pfizer, Inc.  
2001 Lynch Avenue  
East St. Louis, Illinois 62201

(v) If to CERRO:

Vice President - Controller  
Cerro Copper Products Co.  
P.O. Box 681  
East St. Louis, Illinois 62202

(vi) If to the ASSOCIATION:

President  
Sauget Sanitary Development &  
Research Association  
2897 Falling Springs Road  
Sauget, Illinois 62206

(vii) If to the TRUSTEE:

Corporate Trust Department  
Mercantile Trust Company, N.A.  
P.O. Box 321  
St. Louis, Missouri 63166

A duplicate copy of each notice or other communication given hereunder by the VILLAGE, the ASSOCIATION or the COMPANIES, or any of them, shall also be given to the Trustee. The parties to this Agreement may, by notice given hereunder, designate any further or different address to which subsequent notices or other communications shall be sent.

Section 14. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15. Amendments, Changes, Modifications, etc. Subsequent to the issuance of the 1982 Revenue Bonds and prior to their payment in full or provision having been made for their payment, neither this 1982 Treatment Agreement nor the 1982 Bond Ordinance may be effectively amended, changed, modified, altered or terminated except with the written agreement of the VILLAGE, the COMPANIES and the Trustee, if it still be so acting, or the Successor Trustee, if any. The right or

power of the Trustee or Successor Trustee to consent shall be as provided in the 1982 Bond Ordinance. The provisions hereof shall not restrict the VILLAGE in its exercise of its reserved right to issue not to exceed \$2,000,000 of parity bonds, but, in any such event, it shall give each of the COMPANIES at least 42 days advance written notice by certified U.S. Mail.

Section 16. Duties of certain COMPANIES and VILLAGE.

The duties and obligations hereunder of the VILLAGE, MONSANTO, COOPER, and CERRO are in addition to their duties and obligations under the provisions of that certain Agreement among said parties, the ASSOCIATION and AMAX ZINC COMPANY dated on or about December 28, 1973, as amended and supplemented. Said Agreement, as amended and supplemented, shall not be deemed to have been further supplemented, amended or changed hereby.

Section 17. Term of Agreement. This Agreement shall be and remain in full force and effect until all of the 1982 Revenue Bonds have been fully paid or provision has been made for their payment.

Section 18. Optional Termination. In the event of a default by a COMPANY or a unit of local government (in the event the VILLAGE is then billing such unit pursuant to agreement), any other COMPANY (other than MONSANTO or PFIZER) may, at and as of the then next interest payment date, terminate this Agreement as it applies to it by paying to the TRUSTEE such COMPANY's Share of the Liquidated Debt Service Charge. If such optional termination is not exercised as of such then next interest payment date, this Agreement shall remain in full force and effect unless and until there is another default.

In lieu of paying 100% of such COMPANY's Share of the Liquidated Debt Service Charge, the COMPANY may, with the consent and approval of the Trustee, pay an amount of money sufficient to enable the Trustee, in its sole opinion, to purchase direct, full faith and credit obligations of the U. S. Treasury the principal of, and interest on, which will, with such beginning cash as may be necessary, be sufficient to pay in a timely manner the amounts which constitute the COMPANY's Share of the Liquidated Debt Service Charge, plus the Trustee's fees applicable thereto.

Section 19. Provision for Defeasance. At any time, any one or more of the COMPANIES (not then in default under the provisions of this Agreement) may deposit with the Trustee, on terms agreeable to the Trustee for the reasonable security of the holders of the 1982 Revenue Bonds, sufficient funds or sufficient direct obligations of the United States of America, the principal of and interest on which are sufficient to pay, when due, the principal of and interest on all then outstanding 1982 Revenue Bonds. If such deposit is made by more than one COMPANY, each COMPANY's share of the total contributions to such deposit shall be made in the same proportion that its Minimum Annual Use bears to the aggregate Minimum Annual Use of all COMPANIES' contributions to such deposit. If and when any such deposit is made, and notwithstanding the provisions of Section 17 hereof, the obligations under this Agreement shall terminate as to any COMPANY making any such deposit.



Section 20. Governing Law. This Agreement shall be construed exclusively under the applicable laws of the State of Illinois.

Section 21. Successors and Assigns. This Agreement shall be binding upon each of the parties, its successors and assigns.

Section 22. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument. Any such counterpart may be signed by one or more of the parties hereto so long as each of the parties hereto has signed one or more of such counterparts.

Section 23. Sewer Use Ordinance. The VILLAGE will adopt and keep in full force and effect an ordinance prohibiting any user of the Regional System from discharging to such System any wastewater which is incompatible with, or injurious to, such System or which would cause the Village to violate any of the applicable permits or standards. Any such ordinance shall impose a fine or penalty and also liability for damages upon a violator. If and when collected, such fines, penalties and damages shall be deposited in the Sewerage Fund of the VILLAGE. The Village shall use its best efforts to enforce such Ordinance.

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate names to be subscribed hereto and their respective corporate seals to be hereto affixed and attested by their duly authorized officers, all on the date set opposite their respective corporate names.

VILLAGE OF SAUGET, ILLINOIS

Date: 12/30/02

[SEAL]

Attest:

By Betty Long Wilson  
Village Clerk

By Paul Sauguet  
President (Mayor)

MONSANTO COMPANY

Date: \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

EDWIN COOPER, INC.

Date: \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate names to be subscribed hereto and their respective corporate seals to be hereto affixed and attested by their duly authorized officers, all on the date set opposite their respective corporate names.

VILLAGE OF SAUGET, ILLINOIS

Date: \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
President (Mayor)

By \_\_\_\_\_  
Village Clerk

MONSANTO COMPANY

Date: As of December 30, 1982

[SEAL]

Attest:

By Earl N. Brosfield  
Its General Manager  
Manufacturing Division  
Monsanto Chemical Intermediates  
Company

By J. Russell Bignard  
Its Assistant Secretary

EDWIN COOPER, INC.

Date: \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused their respective corporate names to be subscribed hereto and their respective corporate seals to be hereto affixed and attested by their duly authorized officers, all on the date set opposite their respective corporate names.

VILLAGE OF SAUGET, ILLINOIS

Date: \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
President (Mayor)

By \_\_\_\_\_  
Village Clerk

MONSANTO COMPANY

Date: \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

EDWIN COOPER, INC.

Date: 12/27/82

[SEAL]

Attest:

By Ray Wilkins Jr.  
Its President

By [Signature]  
Its Secretary

PFIZER INC.

Date: December 30, 1982

By William D. Welch  
Its Manager, East St. Louis Plant

[SEAL]

Attest:

By Sam Kany  
Its Corporate Counsel

CERRO COPPER PRODUCTS CO.

Date: \_\_\_\_\_

By [Signature]  
Its Vice President

[SEAL]

Attest:

By [Signature]  
Its [Signature]

## APPENDIX A

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### EXAMPLE I

	<u>MAU*</u>	<u>ACTUAL</u>	<u>PAYMENT</u>	<u>CREDIT</u>
A	20	99	99	0.00
B	30	0	30	(29.62)
C	40	0	40	(39.50)
D	<u>10</u>	<u>0</u>	<u>10</u>	<u>( 9.88)</u>
	100	99	179	(79.00)

TOTAL CREDIT:  $179 - 100 = 79$

CREDIT FOR B:  $30/80 \times 79 = 29.62$

CREDIT FOR C:  $40/80 \times 79 = 39.50$

CREDIT FOR D:  $10/80 \times 79 = 9.88$

---

### EXAMPLE II

	<u>MAU*</u>	<u>ACTUAL</u>	<u>PAYMENT</u>	<u>CREDIT</u>
A	20	80	80	0.00
B	30	0	30	(27.69)
C	40	5	40	(32.31)
D	<u>10</u>	<u>10</u>	<u>10</u>	<u>0.00</u>
	100	95	160	(60.00)

TOTAL CREDIT:  $160 - 100 = 60$

CREDIT FOR B:  $30/65 \times 60 = 27.69$

CREDIT FOR C:  $35/65 \times 60 = 32.31$

---

\* Minimum Annual Use

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EXAMPLE III

	<u>MAU*</u>	<u>ACTUAL</u>	<u>PAYMENT</u>	<u>CREDIT</u>
A	20	90	90	0.00
B	30	0	30	(30.0)
C	40	5	40	(35.0)
D	<u>10</u>	<u>10</u>	<u>10</u>	<u>0.00</u>
	100	105	170	(65.0)

TOTAL CREDIT:  $170 - 105 = 65$

CREDIT FOR B:  $30/65 \times 65 = 30$

CREDIT FOR C:  $35/65 \times 65 = 35$

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EXAMPLE IV

	<u>MAU*</u>	<u>ACTUAL</u>	<u>PAYMENT</u>	<u>CREDIT</u>
A	20	90	90	0.00
B	30	35	35	0.00
C	40	15	40	(25.00)
D	<u>10</u>	<u>10</u>	<u>10</u>	<u>0.00</u>
	100	150	175	(25.00)

TOTAL CREDIT:  $175 - 150 = 25$

CREDIT FOR C: 25

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\* Minimum Annual Use

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EXAMPLE V

	<u>MAU*</u>	<u>ACTUAL</u>	<u>PAYMENT</u>	<u>CREDIT</u>
A	20	15	20	0.00
B	30	25	30	0.00
C	40	35	40	0.00
D	<u>10</u>	<u>5</u>	<u>10</u>	<u>0.00</u>
	100	80	100	0.00

TOTAL CREDIT: 100-100 = 0

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\*Minimum Annual Use



INDEMNITY BOND

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_  
EDWIN COOPER, INC., a Delaware corporation  
 authorized to do business in Illinois, as the Principal, and \_\_\_\_\_  
ST. PAUL FIRE AND MARINE INSURANCE COMPANY

\_\_\_\_\_ ,  
 a MINNESOTA corporation authorized to transact surety  
 business in Illinois, as the Surety, are hereby held and firmly bound  
 unto the VILLAGE OF SAUGET, an Illinois municipal corporation situated -  
 in St. Clair County, Illinois, the "Obligee", in the full and just sum  
 of THREE MILLION, NINE HUNDRED NINETY-SIX THOUSAND, SEVEN HUNDRED AND THREE -----  
----- DOLLARS (\$ 3,996,703.00. ) for the payment of  
 which the Principal and the Surety do hereby, jointly and severally,  
 bind themselves and their respective heirs, personal representatives,  
 successors and assigns firmly by these presents.

Made, executed and delivered on this 30th day of  
 December, 1982.

WHEREAS, the Principal has, on the 30th day of  
 December 1982, entered into that certain 1982 Treatment Agreement,  
 hereinafter referred to as the "Agreement", by and among the Obligee,  
 MONSANTO COMPANY, EDWIN COOPER, INC., PFIZER INC., AND CERRO COPPER  
 PRODUCTS CO.; and

WHEREAS, the Principal has, in the Agreement, undertaken certain duties and obligations to the Obligees as more specifically set forth therein, including, but not limited to, the obligation to pay the Principal's COMPANY Share of the Liquidated Debt Service Charge (as defined in the Agreement) upon default by the Principal under the terms of the Agreement; and

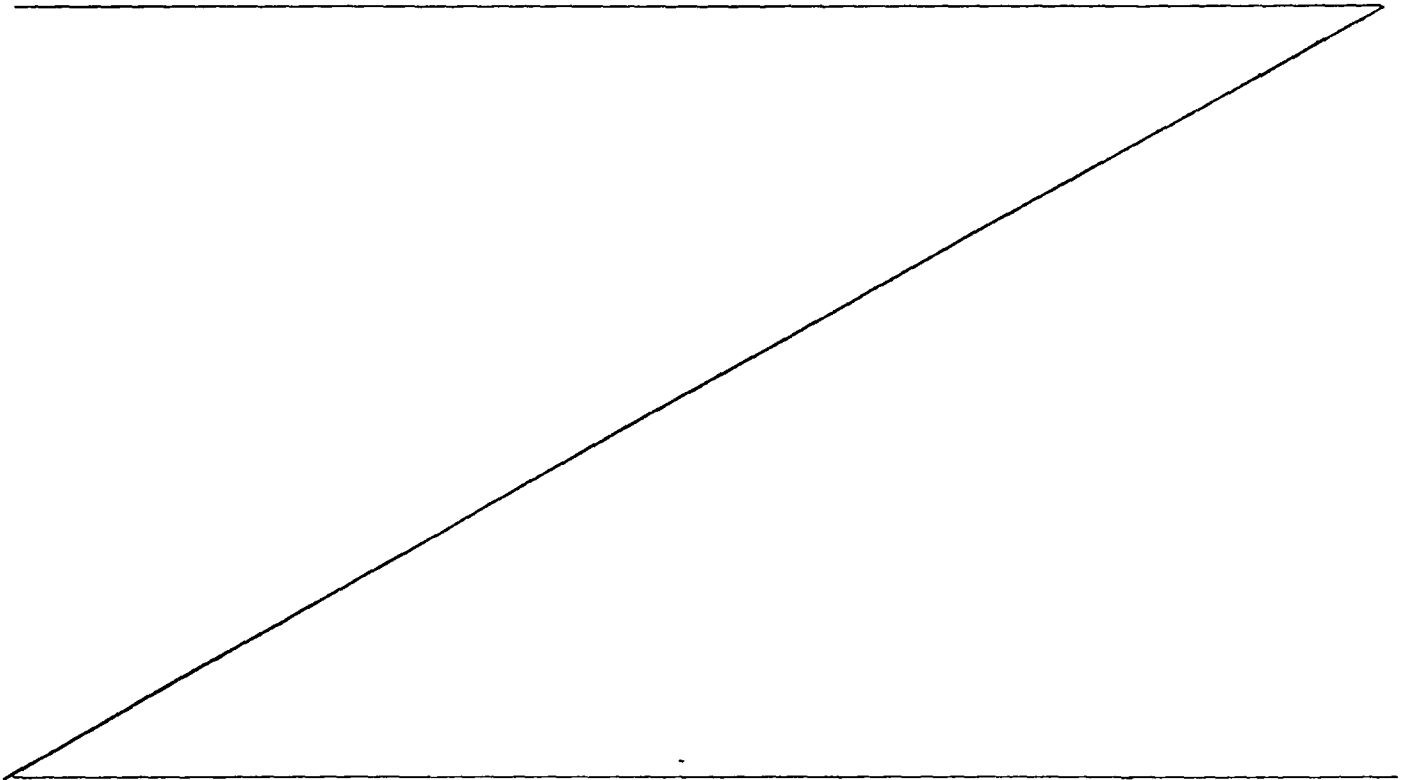
WHEREAS, for the benefit of the Obligees and its assignee, if any, the Principal and the Surety have agreed to provide this Indemnity Bond which applies only to the obligation of the Principal to make payment of the Principal's COMPANY Share of the Liquidated Debt Service Charges to the Obligees as specified in the Agreement.

NOW, THEREFORE, THE CONDITION OF THIS INDEMNITY BOND IS SUCH that, if the Principal shall make payment of the Principal's COMPANY Share of the Liquidated Debt Service Charge as required under the provisions of the Agreement, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

This Indemnity Bond is made, executed and delivered by the Principal and the Surety and is accepted by the Obligees upon the following express conditions:

A. The liability of the Principal or the Surety, or both, under the provisions of this Indemnity Bond, shall not exceed, at any time, the amount specified in the first paragraph of this Indemnity Bond.

B. Notwithstanding any other provision hereof, the liability of the Principal or the Surety, or both, under the provisions of this Indemnity Bond, shall be as specified in the following Schedule of Liability during each period specified in said Schedule (the amounts in the following Schedule of Liability shall in no event be deemed to be cumulative from year to year or from period to period:)



# SCHEDULE OF LIABILITY

PRINCIPAL: EDWIN COOPER, INC.

<u>Period (Both Dates Inclusive)</u>	<u>Maximum Bond Amount</u>
December 2, 1982 - May 1, 1986	\$ 3,996,703.00
May 2, 1986 - November 1, 1986	3,887,361.00
November 2, 1986 - May 1, 1987	3,769,820.00
May 2, 1987 - November 1, 1987	3,615,793.00
November 2, 1987 - May 1, 1988	3,499,665.00
May 2, 1988 - November 1, 1988	3,335,443.00
November 2, 1988 - May 1, 1989	3,221,239.00
May 2, 1989 - November 1, 1989	3,045,673.00
November 2, 1989 - May 1, 1990	2,934,077.00
May 2, 1990 - November 1, 1990	2,746,470.00
November 2, 1990 - May 1, 1991	2,638,198.00
May 2, 1991 - November 1, 1991	2,437,056.00
November 2, 1991 - May 1, 1992	2,332,965.00
May 2, 1992 - November 1, 1992	2,117,758.00
November 2, 1992 - May 1, 1993	2,063,584.00
May 2, 1993 - November 1, 1993	1,879,457.00
November 2, 1993 - May 1, 1994	1,876,350.00
May 2, 1994 - November 1, 1994	1,712,856.00
November 2, 1994 - May 1, 1995	1,695,072.00
May 2, 1995 - November 1, 1995	1,504,231.00
November 2, 1995 - May 1, 1996	1,502,124.00
May 2, 1996 - November 1, 1996	1,280,446.00
November 2, 1996 - May 1, 1997	1,268,395.00
May 2, 1997 - May 1, 1998	1,012,680.00
May 2, 1998 - May 1, 1999	719,145.00
May 2, 1999 - May 1, 2000	383,137.00

C. Upon any default (as defined in the Agreement) by the Principal under the provisions of the Agreement, the Obligee shall give the Surety written notice by Certified U.S. Mail. If such notice is mailed within fifteen (15) calendar days of the date of such default, the notice shall be deemed to have become effective as of the date of the Principal's default. Otherwise, the notice shall be deemed to have become effective as of the date of the mailing. Any such notice shall be sent to the Surety at 385 Washington Street, St. Paul, Minnesota, 55102, or at such other address as the Surety may, from time to time, specify in a written notice mailed to the Obligee at 2897 Falling Springs Road, Sauget, Illinois, 62206, by Certified U.S. Mail. If this Indemnity Bond be assigned by the Obligee, any such change of address notice shall be mailed by the Surety to the assignee by Certified U.S. Mail.

D. It is a condition precedent to any payment by the Surety under this Indemnity Bond and no payment shall be due from the Surety under this Indemnity Bond unless and until the Principal has defaulted under the Agreement and any of the following additional events has occurred:

1. The Obligee shall have obtained a judgment against the Principal in a court of competent jurisdiction for the then due amount of the Principal's COMPANY Share of the Liquidated Debt Service Charge due from the Principal to the Obligee under the terms of the Agreement; or

2. The Obligee is enjoined or restrained by any court of competent jurisdiction against filing, prosecuting or continuing to prosecute any action to secure such a judgment against the Principal; provided, however, the Obligee shall have made a reasonable good faith effort before said court to obtain relief from said injunction or restraining order, but shall have been denied such relief; or

3. The Principal has notified the Obligee and the Surety in writing that the Principal is, in fact, in default under the Agreement, that the Principal does not dispute the amount of the Principal's COMPANY Share of the Liquidated Debt Service Charge then due, and that the Principal is, for any reason, unable to pay the Principal's COMPANY Share of the Liquidated Debt Service Charge; or

4. The default is a default resulting from nonpayment under the Agreement and the Obligee shall have notified both the Principal and the Surety of such default by Certified U.S. Mail and the Principal shall: (a) fail to cure the default within (30) calendar days of its receipt of said notice and (b) fail to notify both the Surety and the Obligee in writing within thirty (30) calendar days of the Principal's receipt of said notice that it disputes the amount that the Obligee alleges is unpaid and or disputes that the Principal is in default under the Agreement.

In the event that any such condition precedent is fulfilled, the Surety's liability shall be deemed to have commenced as of the effective date of the notice provided for, and as specified in, paragraph C hereof.

E. Regardless of the amount of any such judgment obtained by the Obligee against the Principal, the Surety's maximum liability under this Indemnity Bond shall be determined under the provisions of paragraph B hereof as of the effective date of the notice provided for, and as specified in, paragraph C hereof.

F. In no event shall the Surety be liable for court costs, attorney's fees or any other fees or expenses incurred by the Obligee in obtaining any such judgment against the Principal.

G. If any such judgment is obtained, then, at and upon any payment hereunder, by the Surety to the Obligee, the Obligee shall assign to the Surety such an amount of the principal of the judgment as is equal to the amount of the payment by the Surety to the Obligee.

H. In the event a valid claim is made hereunder by the Obligee against the Surety, all terms and conditions of this Indemnity Bond having been complied with by the Obligee, the Surety shall discharge its obligations hereunder in any of the following ways by:

1. Paying to the Obligee in a lump sum 100% of the then applicable Principal's COMPANY Share of the Liquidated Debt Service Charge, as then determined under the provisions of paragraph B hereof.

2. Paying to the Obligee the Principal's COMPANY Share of the amounts of:

(a) The semi-annual interest due on May 1 and November 1 of each year, commencing May 1, 1983, on the Obligee's \$42,000,000 Regional Wastewater Treatment Revenue Bonds, Series 1982, dated December 1, 1982, hereinafter referred to as the "Series 1982 Bonds", excluding interest for the period of December 1, 1982 to and including December 1, 1985, which interest is to be paid from and out of the proceeds of sale of the Series 1982 Bonds;

(b) the annual principal due on May 1 of each year, commencing May 1, 1986, on the Series 1982 Bonds; and

(c) commencing December 2, 1992, the redemption premium, if any, due on the Series 1982 Bonds on the then next earliest optional redemption date of the Series 1982 Bonds.

During the period of December 2, 1982 to and including December 1, 1992, any such payment by the Surety to the Obligee shall be made at least fifteen (15) calendar days prior to the date that such semi-annual interest or annual principal payment is payable by the VILLAGE OF SAUGET to the holders of the Series 1982 Bonds.



Thereafter, any such payment by the Surety to the Obligee shall be made at least sixty (60) calendar days prior to the date that such semi-annual interest or annual principal payment is payable by the VILLAGE OF SAUGET to the holders of the Series 1982 Bonds, so as to allow the Obligee to timely provide for, and publish notice of, redemption of certain of the Series 1982 Bonds.

3. At any time, paying to the Obligee, in a lump sum, the then present value of the Surety's then unpaid future liability under this Indemnity Bond. The amount of any such lump sum payment shall be that amount of money which is sufficient to enable the Obligee, in its sole opinion, to purchase direct, full faith and credit obligations of the U.S. Treasury the principal of, and interest on, which will be, with such beginning cash as may be necessary, sufficient to pay, in a timely manner, the amounts which constitute the Principal's COMPANY Share of the Liquidated Debt Service Charge, plus the trustee's or escrowee's fees applicable thereto. The prior consent of the Obligee shall be required for any such lump sum payment.

4. Making other arrangements to cure or satisfy any default by the Principal which will protect the VILLAGE OF SAUGET from loss and which shall be agreeable to the Obligee, whose approval shall not be unreasonably withheld.

K. The Obligee may, without the prior consent of the Principal or the Surety, assign this Indemnity Bond to MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION, P.O. Box 321, St. Louis, Missouri 63166, the Trustee appointed under the provisions of the Ordinance of the Obligee issuing the Series 1982 Bonds. However, the Obligee shall give the Surety written notice of any such assignment by Certified U.S. Mail.

L. If this Indemnity Bond be so assigned, thereafter the Trustee shall be deemed to be the Obligee.

M. This Indemnity Bond is for the sole benefit only of the Obligee and, if this Indemnity Bond be assigned, the Trustee and no suit may be brought hereon by any other person, firm, corporation or governmental body.

N. Irrespective of any other duties or obligations imposed upon the Principal under the provisions of the Agreement, this Indemnity Bond shall apply only to the Principal's duty and obligation to pay its COMPANY Share of the Liquidated Debt Service Charge and does not apply to any other of the Principal's duties, obligations or performance requirements under the Agreement or

under or by virtue of any other contract, ordinance, law or regulation as may be binding upon the Principal.

EDWIN COOPER, INC.

Principal

By: Ray Wilkins Jr.  
Its President

(SEAL)

ATTEST:

[Signature]  
Its Secretary

St. Paul Fire and Marine Insurance Company, a Minnesota corporation

Surety

By: Michael T. Kelly  
Its Board Mgr.

(SEAL)

ATTEST:

[Signature]  
Its Secretary

Countersigned by:

[Signature]  
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED, the VILLAGE OF SAUGET, an Illinois municipal corporation, the Obligee, hereby assigns the above and foregoing Indemnity Bond and any and all of its rights, powers and privileges under said Indemnity Bond to MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION, the mailing address of which is P.O. Box 321, St. Louis Missouri, 63166, which is the Trustee appointed by said VILLAGE under the provisions of its Ordinance providing for the issuance of its Series 1982 Bonds, and which shall hereafter be the Obligee of said Indemnity Bond.

Dated this 30th day of December, 1982.

VILLAGE OF SAUGET

By: \_\_\_\_\_

Its President (Mayor)

(SEAL)

ATTEST:

Betty Long Wilson  
Its Village Clerk